

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

**UNOPPOSED MOTION TO CONTINUE JURY TRIAL
AND TO EXTEND PRETRIAL DEADLINES**

Briondre Martai Odell Hamilton, through undersigned counsel, Frances Ekwerekwu, respectfully requests the Court enter an order continuing the trial of this matter to the October jury trial docket and extend the time within which to file pretrial motions. In conformity with LCrR 12.1(f), counsel states:

1) Mr. Hamilton is charged by Indictment with Four Counts of making a false statement during the attempted purchase of a firearm in violation of Title 18, United States Code, Section 922(a)(6). (Doc. 16). He appeared for arraignment before United States Magistrate Judge Shon T. Erwin on August 12, 2022 (Doc. 18). Mr. Hamilton entered a plea of not guilty, triggering the time limits of the Speedy Trial Act, 18 U.S.C. § 3161(c)(1). The Speedy Trial Act requires the trial to commence within 70 days or no later than October 21, 2022. The case was placed on this Court's September 13, 2022 jury docket. (Doc. 18);

2) The initial deadlines for filing pretrial motions, responses and notices were set by operation of Local Criminal Rules 12.1 and 12.4.1. The deadline for pretrial motions is September 2, 2022. The party opposing a motion is required to file and serve a response within nine days after a motion is filed. LCrR12.1(b);

3) Counsel requires additional time to effectively prepare for trial and/or negotiate a plea, and is not in a position to effectively represent Mr. Hamilton at a jury trial beginning September 13, 2022. Voluminous and recently produced discovery needs to be reviewed and additional time is necessary to complete counsel's independent investigation and explore an alternative disposition to this case other than trial;

4) Granting the requested continuance of the trial will not exceed the seventy-day limit of the Speedy Trial Act, 18 U.S.C. § 3161 (c)(1);

5) Though the Act is not implicated, counsel states that pursuant to the representation made in paragraph 3, *supra*, the delay occasioned by granting this motion for continuance is excludable under the Speedy Trial Act pursuant to 18 U.S.C. §3161(h)(7)(B)(iv);

6) The Speedy Trial Act gives this Court the discretion to "accommodate limited delays for case-specific needs." *United States v. Zedner*, 547 U.S. 489, 499 (2006). The facts of this case support an ends of justice determination that a continuance to the November 2022 trial docket "outweighs the best interest of the public and the defendant in a speedy trial." *United States v. Toombs*, 574 F.3d 1262, 1273 (10th Cir. 2009), *citing* 18 U.S.C. §3161(h)(7)(A);

- 7) The ends of justice are served by granting a continuance to the October 2022 trial docket and excluding the time delay from the Speedy Trial calculation. The defendant would be unreasonably denied his right to effective assistance of counsel – and potentially due process – were this matter to proceed on September 13, 2022;
- 8) No previous motions for an extension of pretrial deadlines or for a continuance of the jury trial have been filed by either Mr. Hamilton or the Government;
- 9) Stephanie Powers, Assistant United States Attorney, does not oppose this motion;
- 10) The requested continuance will have no impact on other deadlines other than to warrant an extension of trial-related deadlines;
- 11) A Waiver of Right to Speedy Trial will be filed within 10 days of the filing of this motion.

Based on the foregoing, undersigned counsel respectfully requests the jury trial be stricken from the September 13, 2022 docket and reset to the October 11, 2022 trial docket and extend the time to file pretrial motions until September 8, 2022.

Respectfully submitted,

s/ Frances C. Ekwerekwu
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CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2022, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the electronic records currently on file, the Clerk of Court will transmit a Notice of Electronic filing to Stephanie Powers, Assistant United States Attorney.

s/ Frances C. Ekwerekwu
FRANCES C. EKWEREKWU